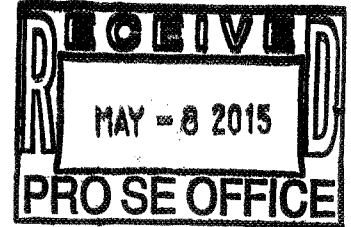


15CV 3839



UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Sean Jerrick
Plaintiff

CIVIL ACTION:
VERIFIED COMPLAINT
JURY CLAIM AS TO ALL COUNTS

v.

Joseph Osolin, Police Officer Shield Number 28774, Queens South Borough Crime

Officer Cullinain, Queens South Borough Crime

John Does 1, 2, and 3 Arresting Police Officers, NYPD Queens Borough

Stephanie Zaro in her official and private capacity as Judge, of The New York City Criminal
Court, Queens County

Richard A Brown in his official and private capacity as District Attorney of Queens County

The City of New York

Dora B Schriro in her official and private capacity as Commissioner, of The New York City
Department of Corrections

Robert Kelley in his official and private capacity as the New York City Police Commissioner

Scott M. Stringer Comptroller of New York City

Zachary W. Carter Corporation Counsel of New York City

Defendants

PETITION FOR DAMAGES FOR UNLAWFUL FALSE AND WRONGFUL ARREST,
UNLAWFUL MALICIOUS PROSECUTION AND UNLAWFUL FALSE IMPRISONMENT

Sean Jerrick, Plaintiff
Counsel, pro se

[Redacted signature]

5/8/2015
Date

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A. PARTIES AND STANDINGS

1. Plaintiff is the aggrieved party who is seeking redress, and in so doing seeks an order of the court to depose the named defendants in order to perpetuate their testimony. He is acting as counsel pro se.

2. Joseph Osolin, his partner Officer Cullinain and John Does 1, 2, & 3 were the arresting officers for the illegal unlawful and false arrest (kidnapping) with no probable cause, and responsible for the resulting fruits of false prosecution and illegal incarceration. They are directly culpable. The criminal action resulting could not and was not sustained, and was thereby dismissed (Exhibit 1).

3. Robert Kelley is the New York City Police Commissioner. He is accountable for responsible recruitment and training of persons operating as police officers, and is negligent in this regard. It is unlikely that the arresting officers would have tried an illegal and false arrest without orders from him or at least his consent. Thus he probably is an accomplice in the incident.

4. Stephanie Zaro sitting on the Judge's bench ordered plaintiff held without bail or due process on Rikers Island. The court did not have jurisdiction. The arrest was without warrant, and there were no basis and facts to substantiate the probable cause of the arrest as supported by the exhibits herein. The criminal action resulting could not and was not sustained, and was thereby dismissed (Exhibit 1). The actions of Stephanie Zaro were not prescribed by any New York State CPL, and is a result of a pervasive custom "deliberately indifferent" to plaintiff's civil rights, where the need for more or different actions was so obvious.

5. Richard A Brown is responsible for prosecuting in Queens Criminal Court the action resulting from a false and illegal arrest. The court information used to propagate the action was facially insufficient, where there were no facts based on the CPL and rules of New York state, that

support the charges. Any reasonable attorney should have been able to determine that the charges levied and the court information was facially insufficient on at least one if not all the charges. Thereby the criminal action resulting could not and was not sustained, and was thereby dismissed (Exhibit 1).

6. New York City, being a municipality, all defendants were duly authorized New York City employees and agents acting under color of law, and are holding offices and titles perpetrating official policies and pervasive customs on behalf of such municipality. Such policies include but are not limited to the NYPD stop and frisk program as found unconstitutional in *Floyd, et al. v. City of New York, et al*, the police officer's actions were authorized and approved by a high-ranking official with policymaking authority, the police department was "deliberately indifferent" to plaintiff's civil rights by failing to properly train and supervise the abusive officers.

7. Dora B Schriro the Commissioner of Corrections in New York City did hold the plaintiff Sean Jerrick in confinement for four months without due process or even being arraigned. Dora B Schriro failed to act and release plaintiff when plaintiff filed a Habeas Corpus with her office.

8. Plaintiff sues all public employees in their official and individual capacities.

9. At all times material to this Complaint, Defendants Officer Osolin, Officer Cullinain, Stephanie Zaro, Richard A Brown, Dora B Schriro, Robert Kelly, and John Does acted toward plaintiff under color of the statutes, ordinances, customs, and usage of the State of New York, City of New York, and New York City Police department.

10. Scott M. Stringer is the Comptroller of New York City, and Zachary W. Carter is the Corporation Counsel of New York City. They represent New York City and will be responsible for paying the damages and subject to any other orders from the Court, as stated in the General

Municipal Law of New York City. Chapter 24 of the Consolidated Laws, Article 4, #50-k, section 2 states:

"2. At the request of the employee and upon compliance by the employee with the provisions of subdivision four of this section, the city shall provide for the defense of an employee of any agency in any civil action or proceeding in any state or federal court including actions under sections nineteen hundred eighty-one through nineteen hundred eighty-eight of title forty-two of the United States code arising out of any alleged act or omission which the corporation counsel finds occurred while the employee was acting within the scope of his public employment and in the discharge of his duties and was not in violation of any rule or regulation of his agency at the time the alleged act or omission occurred. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the city or state or an agency of either."

B. JURISDICTION

11. Jurisdiction rules are listed in FEDERAL RULES OF CIVIL PROCEDURE

Rule 27. "Depositions Before Action or Pending Appeal (a) BEFORE ACTION. (1) Petition. A person who desires to perpetuate testimony regarding any matter that may be cognizable in any court of the United States may file a verified petition in the United States district court in the district of the residence of any expected adverse party. "

12. Allegation of Jurisdiction (a) Jurisdiction founded on diversity of citizenship and amount. Plaintiff is a Negro. All Defendants are government officials of New York City (b) Jurisdiction founded on the existence of Federal questions. The action arises under the Constitution of the United States, Article I, Section 8: "The Congress shall have Power... To Constitute Tribunals

inferior to the supreme Court;" and Article III, Sections 1 and 2. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C § 1331, 42 U. S. C §1983 states in part:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity, or other proper proceeding for redress,..."

13. The residence of none of the Defendants is known to Plaintiff. The litigation is directed against the Defendants as private citizens, and in their professional capacities. All Defendants have offices in New York City.

C. CONSTITUTIONAL ISSUES

14. Several U. S. Constitution issues are involved. These are:

15. U. S. Constitution, Amendment I: "Congress shall make no law ...prohibiting the right of the people peaceably to petition the Government for a redress of grievances."

16. U. S. Constitution, Amendment IV: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,....:"

17. U. S. Constitution, Amendment V: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury,...nor be deprived of life, liberty or property without the due process of law;"

18. U. S. Constitution, Amendment VI: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed..."

19. U. S. Constitution, Amendment VII: "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved,..."

20. U. S. Constitution, Amendment VIII: "Excessive bail shall not be required,..."

21. U. S. Constitution, Amendment XIV, Section 1: "...nor shall any State deprive any person of life, liberty, or property, without the process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

22. U. S Constitution, Article I, Section 9..."The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public Safety requires it."

D. THE IMPROPER ARREST

23. On May 9, 2012 at approximately 12:22 am, the defendant was stopped by Police Officers Osolin and Cullinain near Hillside ave and 163 st in Queens and arrested without warrant.

24. The Officers stated in the accusatory instrument that they observed the defendant Sean Jerrick operating a 2001 Ford minivan with a defective rear taillight and a Pennsylvania State Licenses plate with no registration sticker attached to it (Exhibit 2). The resulting charges and reason for the stop VTL 375-2A (3) were not substantiated by any facts in the accusatory instrument, where VTL 375-2A (3) states that the vehicle shall have at least two lighted lamps one on each side displaying a red light. The accusatory instrument did not detail which light was defective or how it was defective (Exhibit 2).

25. Police officer Osolin further states that he stopped and approached the above mentioned vehicle after activating his police issue turret lights and siren.

26. Police officer Osolin during cross examination at the pretrial hearing for this case stated for the record that when he noticed the defendant violating the traffic laws is when their car was

behind the defendant, the brake light was out (P13Ln5 Pretrial Hearing-Transcript Exhibit 4).

There were no charges listed for an inoperable brake light on the record (Exhibit 2).

27. Officer Osolin also stated for the record that prior to the initial stop he did not notice any unusual behavior with the defendant's driving (P13Ln13-15 Exhibit 4).

28. Deponent Officer Osolin for the record when asked if he noticed anything else about the defendant's vehicle stated that the rear center taillight was out (P6Ln11-13 Exhibit 3).

29. The charges on the accusatory instrument of VTL 375-2A(3) are not substantiated by the officers statements, where VTL375-2A(3) states "if manufactured on or after January first, nineteen hundred fifty-two, at least two lighted lamps on the rear, one on each side, which lamps shall display a red light visible from the rear for a distance of at least one thousand feet;

30. Officer Osolin stated that the rear center taillight was out, confirming that the two lamps on the rear, one on each side were not out, and the vehicle was in compliance with VTL 375-2A(3), which according to the officer was the reason that occasioned the stop and arrest.

31. An improper arrest often is called euphemistically a false arrest by law enforcement personnel. False means it did not occur. This was no false arrest. It was real. These actions fall under actions by police officers perpetrated by the NYPD stop and frisk program as found unconstitutional in *Floyd, et al. v. City of New York, et al.* Plaintiff spent four months in confinement as a result of circumstances related to this arrest.

32. This arrest might be called an illegal arrest. To the Plaintiff, an illegal arrest would mean that the police officers thought that they were acting legally or lawfully, but were mistaken. No such doubt existed here since the Officers have admitted they witnessed nothing wrong with defendants driving, defendants car was in complete compliance with the law, every officer should know the law as it is written. The officers knew that they were breaking the law, but did

not care. These actions fall under actions by police officers perpetrated by the NYPD stop and frisk program as found unconstitutional in *Floyd, et al. v. City of New York, et al.*

E. THE NON ARRAIGNMENT, DETENTION AND NON TRIAL

33. The arraignment occurred on September 6, 2012, in the Criminal Court of Queens four months after being arrested without warrant.

34. Plaintiff was ordered remanded to Rikers Island on May 11, 2012 by Judge Stephanie Zaro without due process i.e without bail or a bail hearing when plaintiff refused to voluntarily submit to fingerprinting.

35. Plaintiff was brought handcuffed and detained to the queens county criminal court on May 21 and 29 2012 before Stephanie Zaro sitting on the judge's bench, who asked if plaintiff was willing to voluntarily submit to fingerprinting. Upon plaintiff's refusal Stephanie Zaro sitting on the judge's bench ordered plaintiff remanded to the department of corrections until plaintiff voluntarily submitted to fingerprinting.

36. Plaintiff was brought handcuffed and detained to the queens county criminal court on July 11, 17, 25 2012 to voluntarily submit to fingerprinting. Upon plaintiff's refusal to voluntarily comply plaintiff was ordered remanded to Rikers to continue the unlawful detention and incarceration. The facts as support by exhibits herein, of the arrest without warrant and ensuing criminal action, "was of such a character as to justify the refusal to testify" *Olmsted v Edson* 98 NW 415 71 Neb 17 NH.

37. Plaintiff was brought handcuffed and detained to the Queens County Criminal Supreme Court on August 1 pursuant to the filing of Habeas Corpus with the court and the commissioner of the corrections Dora Schriro. Barry Kron sitting on the judge's bench evaded all issues related

to Habeas Corpus and directed questioning to plaintiff concerning plaintiff's voluntary compliance with fingerprinting.

38. Plaintiff still incarcerated filed a complaint with the state commission on judicial conduct in august detailing the circumstances initiated by Stephanie Zaro sitting on the judge's bench.

39. Plaintiff was brought handcuffed and detained to the queens county criminal court on September 6, 2012 where police officers under court order signed by Stephanie Zaro (Exhibit 5), fingerprinted plaintiff by force. The police are authorized in New York to hold a person arrested for an alleged fingerprintable offense until receipt of a court order compelling a person to submit to fingerprinting. However in this case, plaintiff was ordered held by the Stephanie Zaro.

Plaintiff was not held by police, but held in the county jail by the department of corrections under orders by Stephanie Zaro, where over 120 days elapsed before the police received such court order to fingerprint by force. Where fingerprinting is a necessary precondition to arraignment, and plaintiff's refusal to voluntarily submit due to the facts surrounding the arrest without warrant, Stephanie Zaro showed "deliberate indifferent" to plaintiff's civil rights of being free of incarceration absent a conviction. The order to remain remanded was issued by Stephanie Zaro, where an alternative of securing the fingerprints by force was available, which was subsequently executed after plaintiff was imprisoned for over 120 days.

40. Plaintiff was brought handcuffed and detained to the Queens County criminal court on September 7, 2012 where plaintiff was finally arraigned on charges and released on his own recognizance 121 days after arrest without warrant, an arrest based on facts supported by admissions of the arresting officers, that did not conform with any violation of state laws, and thus was without probable cause. The right to be free from arrest without probable cause is a clearly established constitutional right.

41. Plaintiff having filed an omnibus motion to dismiss based on the facial insufficiency of the accusatory instrument and charges therein, appeared on October 11, November 2nd, and December 4th 2012, where no decision was rendered by Stephanie Zaro sitting on the judge's bench regarding plaintiff's motion.

42. On January 22, 2013 plaintiff participated in pretrial hearings. Plaintiff subsequently appeared on March 4, April 16th, May 28th, June 19th, July 10th, and Sep 25th 2013, where the people were not ready for trial, and no decision and order was made on plaintiff's omnibus motion to dismiss.

43. Plaintiff filed on September 4th 2013, a motion to dismiss based on violation of speedy trial rights under the sixth amendment to the constitution of the United States. After a few more appearances, the speedy trial motion was granted on January 29, 2014 dismissing the action resulting from the false arrest.

F. REMEDIES AND RELIEF SOUGHT

44. As a result of the concerted unlawful arrest and malicious prosecution by Defendants plaintiff was deprived of both his liberty without due process of law and his right to equal protection of the laws, and the due course of justice was impeded, in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. sec. 1983. In addition, in due course of deprivation of plaintiff's liberty, plaintiff lost his job, and place of living.

WHEREFORE, Plaintiff demands judgment for all charges and counts herein against all the Defendants jointly and severally, for actual, general, special, compensatory damages in the total amount of \$6,000,000 and further demands judgment against each of said Defendants, jointly

and severally, for punitive damages in the total amount of \$1,500,000, plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

"Punitive damages are recoverable in sec. 1983 suit where defendant's conduct is motivated by an evil motive or intent, or where it involves reckless or callous indifference to plaintiff's federally protected rights). *Smith v. Wade*, 461 U.S. 30, 50-51 ((1983); *Clark v. Taylor*, 710 F.2d 4, 14 (1st Cir. 1983).

G. CHARGES AND CLAIMS

COUNT I

FALSE ARREST, VIOLATION OF 42 U.S.C § 1983

45. Plaintiff re-alleges paragraphs 1-9, and 23-32.

46. On May 9, 2012, Defendants Joseph Osolin, Officer Cullinain and Officers John Does 1, 2, and 3 (hereinafter, Arresting Officers), without warrant or due Process of law (NY Const., Art. 1, Sec. 12, US Const. Amendment 4 and 6), unlawfully arrested the Plaintiff, and acting contrary to law, did falsely imprison the Plaintiff, depriving him of his liberty,

47. As a result of the Defendants false arrest and imprisonment of the Plaintiff, the Plaintiff had his right to liberty violated, suffered mental anguish, a loss of time and wages in his work, loss of his place to live, and a discredit in his reputation by his failure to attend to his job, and subsequently losing his job and employment. As of the date of filing this complaint, plaintiff is still not employed, and is still without a permanent residence.

WHEREFORE, Plaintiff demands judgment for the false arrest against all the Defendants jointly and severally, for actual, general, special, compensatory damages in the amount of \$1,000,000 and further demands judgment against each of said Defendants, jointly and severally, for punitive damages in the amount of \$250,000, plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

"Punitive damages are recoverable in sec. 1983 suit where defendant's conduct is motivated by an evil motive or intent, or where it involves reckless or callous indifference to plaintiff's federally protected rights). *Smith v. Wade*, 461 U.S. 30, 50-51 ((1983); *Clark v. Taylor*, 710 F.2d 4, 14 (1st Cir. 1983).

COUNT II

FALSE IMPRISONMENT, VIOLATION OF 42 U.S.C § 1983

48. Plaintiff re-alleges paragraphs 1-9, and 23-40.

49. The defendants, the Arresting Officers, upon arresting Plaintiff, brought him to the county jail for the purpose of booking and detaining him, and made no attempt to bring the Plaintiff before a proper Judge or Court as is required by due process.

50. The acts of Defendant Stephanie Zaro sitting on the judge's bench who "erroneously assumed jurisdiction to pass Judgment upon and commit to prison a person for a crime of which she has no Jurisdiction except to examine and hold to bail or commit for trial" *Robertson v Parker* 75 NW 423 99 Wis 652, whereby defendant imposed punishment without a constitutional adjudication of guilt (NY Const., Art. 1, Sec. 1, 2).

WHEREFORE, Plaintiff demands judgment for the false imprisonment against all the Defendants jointly and severally, for actual, general, special, compensatory damages in the amount of \$1,000,000 and further demands judgment against each of said Defendants, jointly and severally, for punitive damages in the amount of \$250,000, plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

COUNT III

ASSAULT AND BATTERY, VIOLATION OF 42 U.S.C § 1983

51. Plaintiff re-alleges paragraphs 1-9, and 23-40.

52. Due to the unlawful acts of all Defendants, the Plaintiff suffered a series of assaults and batteries upon his person, including arrest, handcuffing, imprisonment, physically searched, forced fingerprinting and booking procedures, and harassment.

WHEREFORE, Plaintiff demands judgment for the assault and battery against all the Defendants jointly and severally, for actual, general, special, compensatory damages in the amount of \$1,000,000 and further demands judgment against each of said Defendants, jointly and severally, for punitive damages in the amount of \$250,000, plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

COUNT IV

CONSPIRACY, VIOLATION OF 42 U.S.C § 1983

53. Plaintiff re-alleges paragraphs 1-9, and 23-40

54. As a result of their concerted unlawful and malicious conspiracy of all Defendants, plaintiff was deprived of both his liberty without due process of law and his right to equal protection of the laws, and the due course of justice was impeded, in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States.

WHEREFORE, Plaintiff demands judgment for the conspiracy against all the Defendants jointly and severally, for actual, general, special, compensatory damages in the amount of \$1,000,000 and further demands judgment against each of said Defendants, jointly and severally, for punitive damages in the amount of \$250,000, plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

COUNT V

REFUSING OR NEGLECTING TO PREVENT, VIOLATION OF 42 U.S.C §
1983

55. Plaintiff re-alleges paragraphs 1-9, and 23-40

56. At all times relevant to this Complaint, Defendants Arresting Officers as police officers of the New York City Police Department were acting under the direction and control of Defendant Raymond Kelly and Defendant New York City

57. Acting under color of law and pursuant to official policy or custom, Arresting Officers, Raymond Kelly, and New York City knowingly, recklessly, or with gross negligence failed to

instruct, supervise, control, and discipline on a continuing basis Defendant police officers in their duties to refrain from:

- (a) Unlawfully and maliciously harassing a citizen who was acting in accordance with his constitutional and statutory rights, privileges, and immunities,
- (b) Unlawfully and maliciously arresting, imprisoning and prosecuting a citizen who was acting in accordance with his constitutional and statutory rights, privileges, and immunities,
- (c) Conspiring to violate the rights, privileges, and immunities guaranteed to Plaintiff by the Constitution and laws of the United States and
- (d) Otherwise depriving Plaintiff of his constitutional and statutory rights, privileges, and immunities.

WHEREFORE, Plaintiff demands judgment for the refusing or neglecting to prevent against all the Defendants jointly and severally, for actual, general, special, compensatory damages in the amount of \$1,000,000 and further demands judgment against each of said Defendants, jointly and severally, for punitive damages in the amount of \$250,000, plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

COUNT VI

MALICIOUS PROSECUTION

58. Plaintiff re-alleges paragraphs 1-9, and 23-40

59. Defendants instituted criminal process against the plaintiff with malice:

(a) District Attorney Richard A Brown and or his designees and Stephanie Zaro played an active part in the initiation of the criminal proceedings;

(b) Officer Cullinain and other Arresting officers played an active part in the initiation of the criminal proceedings as Defendant Officer Osolin's partner by arresting and causing the false imprisonment of plaintiff; and

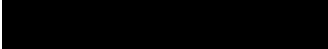
(c) Officer Osolin signed the criminal complaint against plaintiff.

60. The charges were not based on probable cause, probable cause has been defined as " `such a state of facts in the mind of the defendant as would lead a person of ordinary caution and prudence to believe, or entertain an honest and strong suspicion, 'that the plaintiff has committed a crime" Bliss v. Fisher, 842 F. Supp. 2d 400 - Dist. Court, D. Massachusetts 2012.

WHEREFORE, Plaintiff demands judgment for the malicious prosecution against all the Defendants jointly and severally, for actual, general, special, compensatory damages in the amount of \$1,000,000 and further demands judgment against each of said Defendants, jointly and severally, for punitive damages in the amount of \$250,000, plus the costs of this action, including attorney's fees, and such other relief deemed to be just and equitable.

Respectfully Submitted by: 

All Rights Reserved Without Prejudice; U.C.C. 1-207/1-308, U.C.C. 1-103.

Sean Jerrick c/o  NY, NEAR [11431]

VERIFICATION

I hereby declare, verify, certify and state, pursuant to the penalties of perjury under the laws of the United States, and by the provisions of 28 USC § 1746, that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief.

Executed at New York, New York, this 8th day of May 2015.

by: 

Sean Terrick All Rights Reserved Without Prejudice; U.C.C. 1-207/1-308, U.C.C. 1-103

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Complaint has been furnished On this 8th Day of May 2015 to:

TO: The US District Court

Southern District of New York

500 Pearl Street

New York, NY 10007

Exhibit 1

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENSCERTIFICATE OF DISPOSITION
NUMBER: 257245THE PEOPLE OF THE STATE OF NEW YORK
VSJERRICK, SEAN J.
Defendant[REDACTED]
Date of Birth[REDACTED]
Address[REDACTED]
NYSID Number[REDACTED] NY
City State Zip05/09/2012
Date of Arrest/Issue

Docket Number: 2012QN025727

Summons No:

120.20 VTL 509.1 195.05 205.30 VTL 1192.3 VTL 511.1A 221.05 240.20 VTL 375.2A
Arraignment Charges

Case Disposition Information:

<u>Date</u>	<u>Court Action</u>	<u>Judge</u>	<u>Part</u>
01/29/2014	DISM - SPEEDY TRIAL PROVISIONS	HAWKINS, D	AP5

SEALED

pursuant to Section 160.50 of the CPL

NO FEE CERTIFICATION

☐ GOVERNMENT AGENCY ☐ COUNSEL ASSIGNED☐ NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNEDSOURCE ☐ ACCUSATORY INSTRUMENT ☐ DOCKET BOOK/CRIMS ☐ CRC3030 [CRS963]I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN
THIS COURT.NORIEGA
COURT OFFICIAL SIGNATURE AND SEAL04/01/2014
DATE

FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

Exhibit 2



AFFIDAVIT 14431568

Q12627416

CRIMINAL COURT OF THE CITY OF NEW YORK
PART APAR, COUNTY OF QUEENS

(Re Filed Private)

THE PEOPLE OF THE STATE OF NEW YORK

V.

SEAN J JERRICK (34Y)
DEFENDANT

STATE OF NEW YORK
COUNTY OF QUEENS

2012QN025727



Page 29774

POLICE OFFICER JOSEPH OSOLIN OF PBQS ANTI-CRIME UNIT, TAX REG#: 944136, BEING DULY SWORN, DEPOSES AND SAYS THAT ON OR ABOUT MAY 9 2012, APPROXIMATELY BETWEEN 12:00AM AND 12:22AM, IN THE VICINITY OF 163 STREET AND HILLSIDE AVENUE, COUNTY OF QUEENS, STATE OF NEW YORK

THE DEFENDANT COMMITTED THE OFFENSES OF:

VTL 509-1 DRIVING BY UNLICENSED OPERATOR

PL 120.20 RECKLESS ENDANGERMENT IN THE SECOND DEGREE - DNA SAMPLE
REQUIRED UPON CONVICTION

PL 195.05 OBSTRUCTING GOVERNMENTAL ADMINISTRATION IN THE SECOND DEGREE

PL 205.30 RESISTING ARREST

VTL 1192-3 OPERATING MOTOR VEHICLE WHILE UNDER INFLUENCE OF ALCOHOL OR
DRUGS

VTL 511(1) (A) AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE IN
THE THIRD DEGREE

PL 221.05 UNLAWFUL POSSESSION OF MARIHUANA

PL 240.20-1 DISORDERLY CONDUCT

VTL 375-2A(3) EQUIPMENT OF MOTOR VEHICLES AND MOTORCYCLES

IN THAT THE DEFENDANT DID: NOT OPERATING A VEHICLE DURING A ROAD TEST CONDUCTED PURSUANT TO THE PROVISIONS OF ARTICLE NINETEEN OF THE VEHICLE AND TRAFFIC LAW, KNOWINGLY AND UNLAWFULLY OPERATE OR DRIVE A MOTOR VEHICLE UPON A STATE PUBLIC HIGHWAY, ANY SIDEWALK, OR TO OR FROM ANY LOT ADJACENT TO A PUBLIC GARAGE, SUPERMARKET, SHOPPING CENTER OR CAR WASHING ESTABLISHMENT, OR TO OR FROM OR INTO A PUBLIC GARAGE OR CAR WASHING ESTABLISHMENT WITHOUT BEING DULY LICENSED PURSUANT TO THE PROVISIONS OF ARTICLE NINETEEN; RECKLESSLY ENGAGE IN CONDUCT WHICH CREATED A SUBSTANTIAL RISK OF SERIOUS PHYSICAL INJURY TO ANOTHER PERSON A PERSON IS GUILTY OF OBSTRUCTING GOVERNMENTAL ADMINISTRATION WHEN HE INTENTIONALLY OBSTRUCTS, IMPAIRS, OR PERVERTS THE ADMINISTRATION OF LAW OR OTHER GOVERNMENTAL FUNCTION OR PREVENTS OR ATTEMPTS TO PREVENT A PUBLIC SERVANT FROM PERFORMING AN OFFICIAL FUNCTION, BY MEANS OF INTIMIDATION, PHYSICAL FORCE OR INTERFERENCE, OR BY MEANS OF ANY INDEPENDENTLY UNLAWFUL ACT, OR BY MEANS OF INTERFERING, WHETHER OR NOT PHYSICAL FORCE IS INVOLVED, WITH RADIO, TELEPHONE, TELEVISION OR OTHER TELECOMMUNICATIONS SYSTEMS OWNED OR OPERATED BY THE STATE, OR A COUNTY, CITY, TOWN, VILLAGE, FIRE DISTRICT OR EMERGENCY MEDICAL SERVICE OR BY MEANS OF RELEASING A DANGEROUS ANIMAL UNDER CIRCUMSTANCES EVINCING THE ACTOR'S INTENT THAT THE ANIMAL OBSTRUCT GOVERNMENTAL ADMINISTRATION. INTENTIONALLY PREVENT OR ATTEMPT TO PREVENT A POLICE OFFICER OR A PEACE

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JERRICK, SEAN J Q12627416

OFFICER FROM EFFECTING AN AUTHORIZED ARREST OF HIMSELF OR ANOTHER PERSON; OPERATE A MOTOR VEHICLE WHILE IN AN INTOXICATED CONDITION OPERATE A MOTOR VEHICLE UPON A PUBLIC HIGHWAY WHILE KNOWING OR HAVING REASON TO KNOW THAT SUCH PERSON'S LICENSE OR PRIVILEGE OF OPERATING SUCH MOTOR VEHICLE IN THIS STATE OR PRIVILEGE OF OBTAINING A LICENSE TO OPERATE SUCH MOTOR VEHICLE ISSUED BY THE COMMISSIONER IS SUSPENDED, REVOKED OR OTHERWISE WITHDRAWN BY THE COMMISSIONER; KNOWINGLY AND UNLAWFULLY POSSESS MARIHUANA; WITH INTENT TO CAUSE PUBLIC INCONVENIENCE, ANNOYANCE OR ALARM, OR RECKLESSLY CREATING A RISK THEREOF, ENGAGE IN FIGHTING OR IN VIOLENT, TUMULTUOUS OR THREATENING BEHAVIOR; DRIVE ON A PUBLIC HIGHWAY A MOTOR VEHICLE, EXCEPT A MOTORCYCLE, MANUFACTURED ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED FIFTY-TWO, WITHOUT AT LEAST TWO LIGHTED REAR LAMPS, ONE ON EACH SIDE, DISPLAYING A RED LIGHT SEEN FOR AT LEAST ONE THOUSAND FEET FROM THE REAR ANYTIME FROM ONE-HALF HOUR AFTER SUNSET TO THE SAME BEFORE SUNRISE OR WHEN WINDSHIELD WIPERS WERE IN USE DUE TO RAIN, SLEET, SNOW OR OTHER UNFAVORABLE ATMOSPHERIC CONDITIONS, AND WHEN VISIBILITY FOR ONE THOUSAND FEET AHEAD OF SUCH VEHICLE WAS NOT CLEAR

THE SOURCE OF DEPONENT'S INFORMATION AND THE GROUNDS FOR DEPONENT'S BELIEF ARE AS FOLLOWS:

DEPONENT STATES THAT AT THE ABOVE DATE, TIME, AND LOCATION, HE OBSERVED THE DEFENDANT, SEAN J JERRICK, OPERATING A 2001 FORD MINI VAN WITH AN APPREHENDED CO-DEFENDANT [REDACTED]

[REDACTED] SITTING IN THE FRONT PASSENGER SEAT OF SAID VEHICLE, WHICH HAD A DEFECTIVE REAR TAIL LIGHT AND A PENNSYLVANIA STATE LICENSE PLATE WITH NO REGISTRATION STICKER AFFIXED TO IT. DEPONENT FURTHER STATES THAT SAID VEHICLE ALSO HAD AN EXCESSIVELY TINTED REAR WINDSHIELD, WHICH RENDERED THE TEMPORARY REGISTRATION ON SAID WINDSHIELD INVISIBLE.

DEPONENT FURTHER STATES THAT HE STOPPED AND APPROACHED THE ABOVE-MENTIONED VEHICLE AFTER ACTIVATING HIS POLICE ISSUED TURRET LIGHTS AND SIRENS.

DEPONENT FURTHER STATES THAT UPON REQUESTING VEHICLE PAPERS, THE DEFENDANT WAS UNABLE TO PRODUCE ANY VALID DRIVER'S LICENSE.

DEPONENT FURTHER STATES THAT HE OBTAINED AND REVIEWED A PRINTOUT OF THE RECORDS MADE AND MAINTAINED IN THE ORDINARY COURSE OF BUSINESS BY THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES ["DMV"] AS SAID RECORDS PERTAIN TO THE DRIVING AND LICENSING HISTORY OF THE DEFENDANT, SEAN J JERRICK [REDACTED], AND THAT SAID DMV RECORDS SHOW: THAT THE DEFENDANT'S LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE WAS SUSPENDED (OR REVOKED) APPROXIMATELY FOUR [4] TIMES ON TWO [2] SEPARATE DATES, INCLUDING MOST RECENTLY ON 1/19/2008; THAT THE DEFENDANT'S LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE CURRENTLY REMAINS REVOKED; AND, THAT THE DEFENDANT IS NOT LICENSED TO OPERATE A MOTOR VEHICLE.

DEPONENT FURTHER STATES THAT DURING THE ABOVE DESCRIBED CAR STOP, HE AND HIS PARTNER APPROACHED EACH SIDE OF THE ABOVE-MENTIONED VEHICLE WHILE THEY WERE EACH ON DUTY AND WHILE THEIR SHIELDS WERE DISPLAYED.

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DEPONENT FURTHER STATES THAT DURING SAID CAR STOP, HE AND HIS PARTNER REPEATEDLY ORDERED THE DEFENDANT AND THE APPREHENDED OTHER TO ROLL DOWN THE WINDOWS OF THE ABOVE VEHICLE, BUT THE DEFENDANT AND THE APPREHENDED OTHER REFUSED TO COMPLY EACH TIME.

DEPONENT FURTHER STATES THAT HE AND HIS PARTNER ALSO REPEATEDLY ORDERED THE DEFENDANT AND THE APPREHENDED OTHER TO UNLOCK THE DOORS OF THE VEHICLE AND EXIT, BUT THE DEFENDANT AND THE APPREHENDED OTHER SIMILARLY REFUSED TO COMPLY WITH THESE POLICE ORDERS AS WELL.

DEPONENT FURTHER STATES THAT AFTER THE PASSAGE OF SEVERAL MINUTES AND THE ARRIVAL OF ADDITIONAL POLICE OFFICERS AT THE SCENE, THE DEFENDANT BEGAN TO EXIT THE ABOVE-MENTIONED VEHICLE AND THEN SUDDENLY TURNED AROUND WHILE PUSHING POLICE OFFICERS WHO WERE STANDING NEARBY INTO ON-COMING TRAFFIC, AS HE ATTEMPTED TO GET BACK INTO THE VEHICLE. DEPONENT FURTHER STATES THAT THE APPREHENDED OTHER SIMULTANEOUSLY CLIMBED OVER INTO THE DRIVER'S SEAT OF SAID VEHICLE AND PLACED HER HANDS ON THE STEERING WHEEL IN AN ATTEMPT TO DRIVE AWAY FROM THE ABOVE LOCATION.

DEPONENT FURTHER STATES THAT THE DEFENDANT AND THE APPREHENDED OTHER EACH FLAILED THEIR ARMS IN AN ATTEMPT TO AVOID BEING HANDCUFFED.

DEPONENT FURTHER STATES THAT HE SUBSEQUENTLY RECOVERED TWO [2] VACUUM WRAPPED PACKAGES, EACH CONTAINING A QUANTITY OF MARIJUANA, FROM THE CENTER CONSOLE OF THE ABOVE-MENTIONED VEHICLE, DIRECTLY BETWEEN WHERE THE DEFENDANT AND THE APPREHENDED OTHER WERE SITTING.

DEPONENT STATES THAT HIS CONCLUSION THAT THE RECOVERED SUBSTANCES ARE MARIJUANA, IS BASED UPON HIS TRAINING AND EXPERIENCE AS A POLICE OFFICER IN THE IDENTIFICATION AND PACKAGING OF CONTROLLED SUBSTANCES AND MARIJUANA.

DEPONENT FURTHER STATES THAT HE ALSO RECOVERED AN EMPTY LITER-SIZED BOTTLE OF "GASTON & CLARKE" TEQUILA FROM THE TOP OF THE REAR SEAT OF SAID VEHICLE, IN OPEN VIEW.

DEPONENT FURTHER STATES THAT HE ALSO RECOVERED AN UNSEALED FIFTY MILLILETER [50 ML] BOTTLE OF "GRAY'S PEAK" VODKA FROM THE DEFENDANT'S JACKET POCKET.

DEPONENT FURTHER STATES THAT DURING THE ABOVE DESCRIBED INCIDENT, HE ALSO OBSERVED THAT THE DEFENDANT APPEARED TO BE INTOXICATED IN THAT, AMONG OTHER THINGS, HE HAD A STRONG ODOR OF AN ALCOHOLIC BEVERAGE ON HIS BREATH, BLOOD-SHOT AND WATERY EYES, SLURRED SPEECH, WAS UNSTEADY ON HIS FEET, AND BELLIGERENT.

DEPONENT FURTHER STATES THAT HE REMOVED THE DEFENDANT TO THE 112TH PRECINCT IN QUEENS COUNTY, WHERE THE DEFENDANT REFUSED TO SUBMIT TO AN INTOXILYZER EXAMINATION IN THE DEPONENT'S PRESENCE. DEPONENT FURTHER STATES THAT WHILE AT THE 112TH PRECINCT, THE DEFENDANT ALSO REFUSED TO PROVIDE A SAMPLE OF HIS URINE FOR THE PURPOSE OF DETERMINING THE PRESENCE OF DRUGS OR INTOXICANTS IN HIS SYSTEM.



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FALSE STATEMENTS MADE IN THIS DOCUMENT ARE
PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT
TO SECTION 210.45 OF THE PENAL LAW

5/1/12. *[Signature]*

DATE SIGNATURE

SWORN TO BEFORE ME ON THE
DAY OF

DATE SIGNATURE

HEARING

1

1 CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS : PART HP-1

2
3 -----X
THE PEOPLE OF THE STATE OF NEW YORK, :

4 -against- :

Docket Number
2012QN025727

5 SEAN J. JERRICK, :

6 Defendant. :
7 -----X

125-01 Queens Blvd.
Kew Gardens, New York
January 22 , 2013

9
10 B E F O R E:

11 THE HONORABLE LEWIS DOUGLAS,
Judicial Hearing Officer.

12 A P P E A R A N C E S:

13 FOR THE PEOPLE:

14 RICHARD A. BROWN, ESQ.,
District Attorney
County of Queens

15 BY: COURTNEY CHARLES, ESQ.
Assistant District Attorney

16
17 FOR THE DEFENDANT:
PRO-SE

18
19
20
21 KATHLEEN KANE
Official Court Reporter.
22
23
24
25

Exhibit 3

HEARING

6

1 A Yes.

2 Q Was that license plate from New York?

3 A No. Pennsylvania.

4 Q Did you check to see if that license plate was valid?

5 A Yes.

6 Q How did you do that?

7 A On our computer in the car.

8 Q What did the computer indicate when you checked if the
9 license plate was valid?

10 A No report return.

11 Q Did you observe anything else about the defendant's
12 vehicle?

13 A Actually rear taillight, the center taillight was out.

14 Q How did the rear windshield appear to you?

15 A It was tinted. I could not see inside of the vehicle.

16 Q In response to all of this what did you do?

17 A We turned on the lights in the car, and we pulled over
18 the defendant. I approached the vehicle told him the brake
19 light was out and asked for his license paperwork for the
20 vehicle and went back to my car.

21 Q When the defendant provided you with this license, was
22 that a valid driver's license?

23 A It was an ID. It was not a driver's license. It was not
24 valid driver's license.

25 Q Based on this did you return to the defendant's vehicle?

Exhibit 4

HEARING

13

1 following.

2 THE COURT: Overruled.

3 Q So at what point that you did notice the defendant's car
4 was violating any traffic law?

5 A When our car was behind the defendant's, the brake light
6 was out.

7 Q The brake light was out?

8 A Right.

9 THE COURT: Did you say a license plate was missing in
10 the front.

11 THE WITNESS: Yes. There was a license plate missing
12 in the front.

13 Q Prior to the initial stop did you notice any unusual
14 behavior with the defendant's driving?

15 A No, not driving wise.

16 Q Pardon me.

17 A Not driving wise, not the vehicle itself.

18 THE DEFENDANT: So for the record, Officer Osolin did
19 not notice any unusual behavior with the defendant's driving.

20 MR. CHARLES: Objection.

21 THE COURT: Sustained at this point. You can make your
22 argument later.

23 THE DEFENDANT: Gotcha.

24 Q Was the defendant swerving in out of traffic?

25 MR. CHARLES: Objection.

Exhibit 5

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS: PART AP5

-----X

THE PEOPLE OF THE STATE OF NEW YORK

ORDER

-against-

SEAN JERRICK,

Docket No. 2012QN025727

Defendant.

-----X

STEPHANIE ZARO, J.

It is hereby ORDERED, that the Commissioner of the Police Department of the City of New York take the fingerprints of the above-captioned defendant. Any necessary force required to take the fingerprints may be used.

This Court will accept no excuses and orders that such fingerprinting be done as soon as possible, in that the defendant has persistently refused to allow his fingerprints to be taken.

IT IS SO ORDERED

DATED: August 27, 2012
Kew Gardens, NY



STEPHANIE ZARO, JCC